

and defined in the Public Utility Regulatory Policies Act of 1978 (PURPA) and 18 C.F.R. § 292.207.

U.S. Geothermal alleges Idaho Power's contract demands are unjust, unreasonable and contrary to law because:

1. Idaho Power refuses to purchase an annual average of 10 MW of power from U.S. Geothermal at the Commission-approved non-levelized posted rates. Instead, Idaho Power insists that it will only purchase a maximum of 10 MW in any given hour at the posted rates. U.S. Geothermal contends that there is no basis in law or in fact with such a limitation.

2. Idaho Power insists on extreme financial penalties if U.S. Geothermal's total output in any month falls below 90%, or above 100%, of its projected output. U.S. Geothermal contends that there is no basis in law or in fact for such penalties.

3. Idaho Power insists that it must have the ability to terminate its contractual obligation to purchase U.S. Geothermal's power if (1) Idaho law is modified to permit any other party to sell electricity at retail in Idaho Power's service territory and (2) such change in law results in Idaho Power being unable to recover in its retail revenue requirement all costs attributable to the agreement with U.S. Geothermal. U.S. Geothermal contends that there is no basis in law or in fact for Idaho Power's position, and it would effectively nullify this Commission's rules by making it extremely costly, if not impossible, to finance PURPA projects.

On April 19th, Idaho Power filed its Answer.

Case No. IPC-E-04-10 – Mssrs. Lewandowski and Schroeder

YOU ARE FURTHER NOTIFIED that on April 28, 2004, Bob Lewandowski and Mark Schroeder filed a complaint against Idaho Power Company in Case No. IPC-E-04-10. Both Mr. Lewandowski and Mr. Schroeder are in the process of developing wind power projects in Idaho that will be qualifying facilities pursuant to PURPA.

Mr. Lewandowski and Mr. Schroeder complain that:

1. Idaho Power is insisting on contract provisions that obviate the requirement that a purchase of all of the output from these projects be at full avoided cost rates when said output is less than 90% or more than 110% of projected output.

2. Idaho Power is also insisting on a contract provision called "shortfall energy" which would actually require the developer to pay Idaho Power for electricity not produced by the project with no cap or ceiling on the price.

3. By later amendment the complainants also incorporated a third count regarding Idaho Power's proposal to terminate the agreement should retail deregulation be implemented in Idaho. They contend there is no basis in law or fact for this position and that it would effectively nullify the Commission's rules by making it extremely costly, if not impossible, to finance PURPA projects.

On May 17, 2004, Idaho Power filed its Answer. The complainants allege that a further answer as to its third count should not burden Idaho Power Company. The complainants expect that the Company's response on that issue will be the identical one sentence denial it filed in its Answer to U.S. Geothermal's complaint.

MOTION TO CONSOLIDATE

On May 12, 2004, complainants Lewandowski and Schroeder filed a Motion to Consolidate their complaint in Case No. IPC-E-04-10 with the U.S. Geothermal complaint in Case No. IPC-E-04-8. Alternatively, they request authority to intervene as a party in the U.S. Geothermal docket.

Mr. Lewandowski and Mr. Schroeder contend that the issues raised in Case Nos. IPC-E-04-10 and IPC-E-04-8 both deal with PURPA contract terms insisted on by Idaho Power Company. The issues in both complaints, they contend, are essentially identical. The defendant in both dockets is Idaho Power Company and the complainants in both dockets are QF developers who seek Commission guidance on Power Purchase Agreement issues that are essentially identical.

Commission Rule of Procedure 247 (IDAPA 31.01.01.247) allows the Commission to consolidate dockets when "it finds that they present issues that are related and that the rights of the parties will not be prejudiced." Mr. Lewandowski and Mr. Schroeder contend that no party will be prejudiced by consolidation because no procedural actions have been taken in either docket except for the actual filing of the Complaints and the Company's Answers. In addition, they contend that there is no prejudice because the issues in both dockets are so closely related.

IDAHO POWER RESPONSE

Idaho Power by way of response recommends consolidating Case Nos. IPC-E-04-8 and IPC-E-04-10. The principal differences between the two complaints, the Company notes, appear to be (1) interconnection issues arising out of the fact that U.S. Geothermal's Raft River Project is physically located in the service area of the Raft River Co-op and (2) U.S. Geothermal's request that the Commission order Idaho Power to purchase generation from the Raft River Project at the published rates approved for QF's smaller than 10 MW even though U.S. Geothermal's Raft River Project has a capacity larger than 10 MW. Mr. Lewandowski's and Mr. Schroeder's respective projects will be directly interconnected with the Company's system and have capacities less than 10 MW.

Idaho Power contends that if the two cases are consolidated, the issues that are unique to U.S. Geothermal's complaint could be easily separated from the issues that are common to both complaints. Under the circumstances, Idaho Power does not believe it is either necessary or desirable for the Commission to conduct two separate proceedings when both of the complaints seek a resolution of the same issues.

U.S. GEOTHERMAL OPPOSITION TO MOTION TO CONSOLIDATE

U.S. Geothermal opposes Mr. Lewandowski's and Mr. Schroeder's Motion to Consolidate. In order to speed the resolution of this case, U.S. Geothermal states that it has agreed to an expedited filing of its testimony. Pursuant to informal agreement of U.S. Geothermal, Idaho Power and Commission Staff, a schedule for prefile of testimony and a tentative hearing date of September 2-3, 2004 were agreed to.

Granting the Motion to Consolidate, U.S. Geothermal contends, would undoubtedly require the Commission to establish a schedule for the proceeding other than the one agreed to, thus prejudicing U.S. Geothermal's attempt to resolve this case as rapidly as possible. Because of the prejudice or impact on U.S. Geothermal, it contends that consolidation is not appropriate under the provisions of Rule 247 of the Commission's Rules of Procedure.

COMMISSION FINDINGS

The Commission finds that the two complaint proceedings pending against Idaho Power Company, Case Nos. IPC-E-04-8 and IPC-E-04-10, both have at issue the contract terms required by Idaho Power for PURPA QFs. Although the Motion for Consolidation is opposed by

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U.S. Geothermal, the Commission believes that consolidation can be done in a manner that does not delay the proceedings nor prejudice U.S. Geothermal.

YOU ARE HEREBY NOTIFIED that the Commission finds the issues presented in both dockets are related and that the rights of the parties will not be prejudiced by consolidation. Reference Commission Rules of Procedure 247, IDAPA 31.01.01.247. The Commission finds that the issues unique to each complaint related to generation technology, size of project and location are issues that can be separated from the contract issues that are common. The Commission finds consolidation to be a more efficient and economical use of Idaho Power's and the Commission's time and resources and therefore finds it reasonable to consolidate Case Nos. IPC-E-04-8 and IPC-E-04-10. Approving consolidation of the two complaint proceedings, we find no need to address the alternate Motion to Intervene filed by Mssrs. Lewandowski and Schroeder.

YOU ARE FURTHER NOTIFIED that pursuant to agreement of U.S. Geothermal, Idaho Power, Mssrs. Lewandowski and Schroeder, and Commission Staff, the Commission adopts the following scheduling in Consolidated Case Nos. IPC-E-04-8 and IPC-E-04-10:

| | |
|---|-----------------|
| Direct testimony deadline—U.S. Geothermal and Mssrs. Lewandowski and Schroeder | June 9, 2004 |
| Direct testimony deadline—Idaho Power | July 15, 2004 |
| Direct testimony deadline—Staff (and Intervenors) | August 5, 2004 |
| Rebuttal testimony deadline | August 19, 2004 |

YOU ARE FURTHER NOTIFIED that the Commission will conduct a **public hearing** in consolidated Case Nos. IPC-E-04-8 and IPC-E-04-10 on **THURSDAY, SEPTEMBER 2, 2004, COMMENCING AT 9:30 A.M. AT THE COMMISSION HEARING ROOM, 472 WEST WASHINGTON STREET, BOISE, IDAHO** and continuing if necessary on **September 3, 2004 at the same location.**

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YOU ARE FURTHER NOTIFIED that all proceedings in this case will be held pursuant to the Commission's jurisdiction under Title 61 of the Idaho Code and that the Commission may enter any final Order consistent with its authority under Title 61.

YOU ARE FURTHER NOTIFIED that all proceedings in this matter will be conducted pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

YOU ARE FURTHER NOTIFIED that discovery is available in consolidated Case Nos. IPC-E-04-8 and IPC-E-04-10 pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.221-234.

YOU ARE FURTHER NOTIFIED that all hearings and prehearing conferences in this matter will be held in facilities meeting the accessibility requirements of the Americans with Disabilities Act (ADA). Persons needing the help of a sign language interpreter or other assistance in order to participate in or to understand testimony and argument at a public hearing may ask the Commission to provide a sign language interpreter or other assistance at the hearing. The request for assistance must be received at least five (5) working days before the hearing by contacting the Commission Secretary at:

IDAHO PUBLIC UTILITIES COMMISSION
PO BOX 83720
BOISE, IDAHO 83720-0074
(208) 334-0338 (Telephone)
(208) 334-3762 (FAX)
E-Mail: secretary@puc.state.id.us


ORDER

In consideration of the foregoing and as more particularly described above, IT IS HEREBY ORDERED and the Commission does hereby grant the Motion for Consolidation filed by Mssrs. Lewandowski and Schroeder and approves the consolidation of Case Nos. IPC-E-04-8 and IPC-E-04-10.

IT IS FURTHER ORDERED and the Commission does hereby approve the foregoing schedule for filing of testimony and hearing in Consolidated Case Nos. IPC-E-04-8 and IPC-E-04-10.

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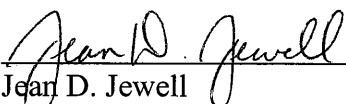
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 8th
day of June 2004.


PAUL KJELLANDER, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


DENNIS S. HANSEN, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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